

**FILED**

**United States Court of Appeals  
Tenth Circuit**

**UNITED STATES COURT OF APPEALS**

**FOR THE TENTH CIRCUIT**

**April 23, 2013**

**Elisabeth A. Shumaker  
Clerk of Court**

In re:

DERRICK LAVELL WILLIAMS,

Petitioner.

No. 13-8007  
(D.C. No. 2:10-CV-00225-NDF)  
(D. Wyo.)

**ORDER**

Before **KELLY, TYMKOVICH**, and **GORSUCH**, Circuit Judges.

This matter comes before the court on Derrick L. Williams’s petition for writ of mandamus and motion to proceed in forma pauperis (ifp). Mr. Williams contends that this court violated the law when it dismissed his civil rights appeal in No. 11-8101, *Williams v. Voigt*, for failure to prosecute by an order that was signed by the Clerk of Court. He contends that, by law, only a panel of three judges could dispose of his appeal. He seeks an order of this court directing the “Lower Courts of Birmingham, Jefferson County, Alabama,” (where he is currently incarcerated), the U.S. District of Wyoming, (where the underlying civil rights case was filed), the Tenth Circuit, and the “Judicial Judiciary, Administrative Officials of the Courts and Law Enforcement Staff and Agencies,” Mandamus Pet. at 1, to follow the principles of due process and federal law, including Title 28 of the U.S. Code, and to stop violating the RICO Act.

On November 27, 2012, a panel of three judges entered an order in appeal No. 11-8101 denying Mr. Williams leave to proceed ifp on appeal and directing him to pay the full filing and docketing fees within twenty days of the date of the order. The order further provided: “If he fails to pay the required fees within that time, the Clerk of this Court is directed to dismiss this appeal for lack of prosecution. *See* 10th Cir. R. 3.3(B)(1), 42.1.” No. 11-8101, *Williams v. Voigt*, Order of Nov. 27, 2012, at 3. When Mr. Williams failed to pay the fees as ordered, the Clerk of the Court entered an order dismissing Mr. Williams’s appeal for lack of prosecution. *Id.*, Order of Jan. 2, 2013.

“[A] writ of mandamus is a drastic remedy, and is to be invoked only in extraordinary circumstances.” *In re Cooper Tire & Rubber Co.*, 568 F.3d 1180, 1186 (10th Cir. 2009) (internal quotation marks omitted). Not only must the petitioner “demonstrate that his right to the writ is clear and indisputable,” but this court, “in the exercise of its discretion, must be satisfied that the writ is appropriate under the circumstances.” *Id.* at 1187 (internal quotation marks omitted). Mr. Williams has not made the necessary showing. A panel of three judges directed the Clerk of Court to issue an order dismissing Mr. Williams’s appeal if he failed to pay the filing fee as ordered, and the Clerk did so. There was no irregularity in that procedure.

The petition for a writ of mandamus is denied; leave to proceed ifp is granted.

Entered for the Court

A handwritten signature in cursive script, reading "Elisabeth A. Shumaker", written in black ink on a light blue dotted background.

ELISABETH A. SHUMAKER, Clerk